

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jun 12, 2024

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RANDEY THOMPSON,

Plaintiff,

v.

CENTRAL VALLEY SCHOOL

DISTRICT NO. 365; BEN SMALL,

individually as Superintendent of the

Central Valley School District; CENTRAL

VALLEY SCHOOL DISTRICT NO. 365

BOARD OF EDUCATION and in their

individual capacity BOARD OF

EDUCATION MEMBERS and

DIRECTORS DEBRA LONG, MYSTI

RENEAU, KEITH CLARK, TOM

DINGUS, and CYNTHIA MCMULLEN,

Defendants.

No. 2:21-CV-00252-SAB

**ORDER DENYING MOTION
FOR RECONSIDERATION**

Before the Court is Defendants' Motion for Reconsideration, ECF No. 79. The motion was heard without oral argument. Plaintiff is represented by Michael Love, Megan Clark, Samir Dizdarevic-Miller, and Robert Greer. Defendants are represented by Michael McFarland, Jr., Christopher Kerley, and Rachel Platin.

ORDER RE: MOTIONS TO EXCLUDE ~ 1

1 Defendants ask the Court to reconsider its ruling excluding Dr. Barry's
2 opinions.

3 Generally, motions for reconsideration are disfavored. *Kona Enterprises,*
4 *Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000). As such, "a motion for
5 reconsideration should not be granted, absent highly unusual circumstances, unless
6 the district court is presented with newly discovered evidence, committed clear
7 error, or if there is an intervening change in the controlling law. *389 Orange Street*
8 *Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999).

9 Defendants assert the Court committed clear error because Dr. Barry cited to
10 CVSD Policies when making her conclusions. Dr. Barry provided the following
11 opinions:

12 1. Plaintiff was not honest in his representations to CVSD supervisors
13 about this matter. He is unlikely to experience the full trust of supervisors or
14 board members in his continued employment at the CVSD.

15 2. Plaintiff's protected speech is not at issue in this case and his political
16 views were not the basis of administrative concern, investigation or adverse
17 action.

18 3. The question of Plaintiff's ability to advance a culture of inclusivity was
19 not a matter of marginal importance because was based on principles set by
20 the CVSD board and administration as high, clear priorities. As an
21 administrator, Plaintiff had a higher obligation to act upon and lead by those
22 values than he demonstrated, both in the workplace and in his personal use of
23 social media.

24 4. Plaintiff's judgment in his use of social media as well as "name-calling
25 and shaming" at work fall below the standard his CVSD supervisors have a
26 right to expect and do expect from their building leaders.

27 5. The role of a school administrator is broader in authority, public reach,
28 visibility and scrutiny than the role of classroom teacher.

1 6. CVSD properly executed the transfer of Plaintiff to a subordinate
2 certified position in keeping with the authority of the superintendent set forth
3 in policy and statute.

4 7. Based on the totality of Plaintiff's conduct revealed through the
5 District's investigation, CVSD's decision to transfer him to a position of less
6 authority, visibility, and influence was proper and justified by the reasons stated in
7 the Notice of Transfer.

8 In granting the motion to exclude, the Court was concerned that in stating
9 her conclusions, Dr. Barry was to be simply restating the evidence and placing her
10 own spin on it. This still remains true. On a case such as this, Dr. Barry's opinion
11 is not necessary to validate the decisions made by CVSD. While Dr. Barry may
12 have consulted CVSD's practices and procedures in forming her conclusions, her
13 opinion continues to neither be appropriate nor helpful to the jury.

14 Accordingly, **IT IS HEREBY ORDERED:**

15 1. Defendant's Motion for Reconsideration, ECF No. 79, is **DENIED**.

16 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order
17 and forward copies to counsel.

18 **DATED** this 12th day of June 2024.



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24 Stanley A. Bastian
25 Chief United States District Judge
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